



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 21, 2017

Mr. Allen M. Keller  
Counsel for IDEA Public Schools  
Schulman, Lopez, Hoffer & Adelstein, LLP  
517 Soledad Street  
San Antonio, Texas 78205-1508

OR2017-26644

Dear Mr. Keller:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 685189.

IDEA Public Schools ("IDEA"), which you represent, received a request for copies of proposals, bid tabulations, and scoring sheets for all respondents, except the requestor's, to a specified request for proposals. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Further, you state release of the submitted information may implicate the proprietary interests of AT&T; Cogent Communication, Inc.; Foremost Telecommunications Corporation ("Foremost"); Spectrum Enterprise; Sprint Business; T-Mobile USA, Inc. ("T-Mobile"); and Verizon Wireless. Accordingly, you state, and provide documentation showing, you notified the third parties of the request for information and of their rights to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from T-Mobile and Foremost. We have considered the submitted arguments and reviewed the submitted information.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's

information] would be an advantage, not whether it would be a decisive advantage.” *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). IDEA states the submitted information relates to a bid for certain goods. You explain IDEA seeks bids for these goods on a recurring basis. You assert release of the submitted information would provide a competitive advantage to bidders in future bids. After review of the information at issue and consideration of the IDEA’s arguments, we find you have established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the IDEA may withhold the submitted information under section 552.104(a) of the Government Code. <sup>1</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/tdw

Ref: ID# 685189

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

9 Third Parties  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address Foremost’s or T-Mobile’s arguments against disclosure.